

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): <b>KIRBY &amp; MCGUINN, APC</b> <b>DEAN T. KIRBY, JR., ESQ., 090114</b> <b>600 "B" STREET, 1950</b> <b>SAN DIEGO, CA 92101</b>		TELEPHONE NO. <b>(619) 685-4000</b>		FOR COURT USE ONLY	
ATTORNEY FOR (Name): Insert name of court, judicial district or branch court, if any: <b>UNITED STATES DISTRICT COURT</b> <b>880 FRONT STREET - SUITE 4290</b> <b>SAN DIEGO, CA 92101</b>		Ref. No. or File No. <b>TINA/CHIQUITA</b>			
PLAINTIFF: <b>CHIQUITA</b>					
DEFENDANT: <b>SAMMY 'S</b>					
<b>PROOF OF SERVICE</b>		DATE:	TIME:	DEPT/DIV:	CASE NUMBER: <b>08 CV-714 JLS (POR)</b>

### UNITED STATES DISTRICT COURT DECLARATION OF SERVICE

I, THE UNDERSIGNED, DECLARE UNDER PENALTY OF PERJURY THAT I WAS ON THE DATE HEREIN REFERRED TO OVER THE AGE OF 18 YEARS AND NOT A PARTY TO THE WITHIN ENTITLED ACTION. I SERVED THE:

APPLICATION FOR TEMPORARY RESTRAINING ORDER WITH NOTICE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S APPLICATIONS FOR TEMPORARY RESTRAINING ORDER WITH NOTICE AND PRELIMINARY INJUNCTION; DECLARATION IN SUPPORT OF APPLICATIONS FOR TEMPORARY RESTRAINING ORDER WITH NOTICE AND PRELIMINARY INJUNCTION; [PROPOSED] TEMPORARY RESTRAINING ORDER; APPLICATION FOR PRELIMINARY INJUNCTION; NOTICE OF HEARING; ORDER GRANTING PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER

ON: SAMMY'S PRODUCE, INC.

AT 1635 ROSECRANS STREET, SUITE D  
EL CAJON, CA 92020

IN THE ABOVE MENTIONED ACTION BY DELIVERING TO AND LEAVING WITH:  
SYLVIA SNYDER, - OFFICE MANAGER

ON: 04/29/2008  
AT: 10:15 am

**Manner of service** in compliance with Federal Code of Civil Procedure.

Fee for Service: **\$42.50**  
 Registered California process server.  
 County: **SAN DIEGO**  
 Registration No.: **968**  
**Diversified Legal Services, Inc.**  
**4665 Park Blvd**  
**San Diego, CA 92116**  
**6192608224**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on **April 30, 2008** at **SAN DIEGO, California**.

Signature: \_\_\_\_\_  
**STEPHEN GEBERT 163836**

**PROOF OF SERVICE**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) <b>DEAN T. KIRBY, JR., ESQ.</b> <b>KIRBY &amp; MCGUINN, APC</b> <b>600 "B" STREET 1950 SAN DIEGO, CA 92101</b> TELEPHONE NO.: (619) 685-4000 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		SBN: 090114 FAX NO.: (619) 685-4004	FOR COURT USE ONLY
<b>UNITED STATES DISTRICT COURT</b> STREET ADDRESS: 880 FRONT STREET - SUITE 4290 MAILING ADDRESS: CITY AND ZIP CODE: SAN DIEGO, CA 92101 BRANCH NAME: SOUTHERN DISTRICT			
PLAINTIFF/PETITIONER: <b>CHIQUITA</b> DEFENDANT/RESPONDENT: <b>SAMMY'S</b>			
<b>PROOF OF SERVICE BY MAIL</b>		CASE NUMBER: <b>08 CV-714 JLS (POR)</b>	

I am a citizen of the United States and employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 4665 PARK BLVD, SAN DIEGO, CA 92116.


On April 29, 2008, after substituted service under section CCP 415.20(a) or 415.20(b) or FRCIV.P 4(d)(1) was made, I mailed copies of the:

**APPLICATION FOR TEMPORARY RESTRAINING ORDER WITH NOTICE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S APPLICATIONS FOR TEMPORARY RESTRAINING ORDER WITH NOTICE AND PRELIMINARY INJUNCTION; DECLARATION IN SUPPORT OF APPLICATIONS FOR TEMPORARY RESTRAINING ORDER WITH NOTICE AND PRELIMINARY INJUNCTION; [PROPOSED] TEMPORARY RESTRAINING ORDER; APPLICATION FOR PRELIMINARY INJUNCTION; NOTICE OF HEARING; ORDER GRANTING PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER**

to the defendant in said action by placing a true copy thereof enclosed in a sealed envelope, with First Class postage thereon fully prepaid, in the United States Mail at SAN DIEGO, CA 92116, California, addressed as follows:

**SAMMY'S PRODUCE, INC.**  
**1635 ROSECRANS STREET SUITE D**  
**EL CAJON, CA 92020**

I am readily familiar with the firm's practice for collection and processing of documents for mailing. Under that practice, it would be deposited within the United States Postal Service, on that same day, with postage thereon fully prepaid at SAN DIEGO, CA 92116, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

Fee for Service: 42.50  
 County: **San Diego**  
 Registration No.: **968**  
 **DIVERSIFIED LEGAL SERVICES, INC**  
**4665 PARK BLVD**  
**SAN DIEGO, CA 92116**  
**(619) 260-8224**

I declare under penalty of perjury under the laws of the State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on **April 30, 2008**.

Signature: \_\_\_\_\_

**KEVIN GILBERT**

**PROOF OF SERVICE BY MAIL**

Order#: 163836/GProof5

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): <b>KIRBY &amp; MCGUINN, APC</b> <b>DEAN T. KIRBY, JR., ESQ., 090114</b> <b>600 "B" STREET, 1950</b> <b>SAN DIEGO, CA 92101</b>		TELEPHONE NO. (619) 685-4000	FOR COURT USE ONLY Page 3 of 8
ATTORNEY FOR (Name): _____		Ref. No. or File No. <b>TINA/CHIQUITA</b>	
Insert name of court, judicial district or branch court, if any: <b>UNITED STATES DISTRICT COURT</b> <b>880 FRONT STREET - SUITE 4290</b> <b>SAN DIEGO, CA 92101</b>			
PLAINTIFF: <b>CHIQUITA</b>			
DEFENDANT: <b>SAMMY 'S</b>			
<b>PROOF OF SERVICE</b>	DATE: _____	TIME: _____	CASE NUMBER: <b>08 CV-714 JLS (POR)</b>

**UNITED STATES DISTRICT COURT  
DECLARATION OF SERVICE**

I, THE UNDERSIGNED, DECLARE UNDER PENALTY OF PERJURY THAT I WAS ON THE DATE HEREIN REFERRED TO OVER THE AGE OF 18 YEARS AND NOT A PARTY TO THE WITHIN ENTITLED ACTION. I SERVED THE:

APPLICATION FOR TEMPORARY RESTRAINING ORDER WITH NOTICE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S APPLICATIONS FOR TEMPORARY RESTRAINING ORDER WITH NOTICE AND PRELIMINARY INJUNCTION; DECLARATION IN SUPPORT OF APPLICATIONS FOR TEMPORARY RESTRAINING ORDER WITH NOTICE AND PRELIMINARY INJUNCTION; [PROPOSED] TEMPORARY RESTRAINING ORDER; APPLICATION FOR PRELIMINARY INJUNCTION; NOTICE OF HEARING; ORDER GRANTING PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER

ON: SAMUEL V. NUCCI

IN THE ABOVE MENTIONED ACTION BY DELIVERING TO AND LEAVING WITH THE ABOVE NAMED PERSON A COPY THEREOF, AT:

1635 ROSECRANS STREET, SUITE D  
SAN DIEGO, CA 92106

ON: April 29, 2008  
AT: 10:15 am

COPIES WERE LEFT AT THE DEFENDANT'S DWELLING HOUSE OR USUAL PLACE OF ABODE WITH A PERSON OF SUITABLE AGE AND DISCRETION. I THEREAFTER MAILED THE COPIES, ADDRESSED AS SHOWN ABOVE, BY FIRST CLASS MAIL, POSTAGE PREPAID, ON April 29, 2008 FROM SAN DIEGO, CA 92116.

NAME OF PERSON WITH WHOM THE DOCUMENTS WERE LEFT:  
SYLVIA SNYDER ~ PERSON IN CHARGE - OFFICE MANAGER

**Manner of service** in compliance with Federal Rules of Civil Procedure.

Fee for Service: \$42.50  
 Registered California process server.  
 County: **SAN DIEGO**  
 Registration No.: **968**  
**Diversified Legal Services, Inc.**  
**4665 Park Blvd**  
**San Diego, CA 92116**  
**6192608224**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on **April 30, 2008** at **SAN DIEGO, California.**

Signature: \_\_\_\_\_  
**STEPHEN GEBERT 163942**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)		FOR COURT USE ONLY	
<b>DEAN T. KIRBY, JR., ESQ.</b> <b>KIRBY &amp; MCGUINN, APC</b> <b>600 "B" STREET 1950 SAN DIEGO, CA 92101</b>  TELEPHONE NO.: (619) 685-4000 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		SBN: 090114   FAX NO.: (619) 685-4004	
<b>UNITED STATES DISTRICT COURT</b>  STREET ADDRESS: 880 FRONT STREET - SUITE 4290  MAILING ADDRESS:  CITY AND ZIP CODE: SAN DIEGO, CA 92101  BRANCH NAME: SOUTHERN DISTRICT			
PLAINTIFF/PETITIONER: <b>CHIQUITA</b>  DEFENDANT/RESPONDENT: <b>SAMMY'S</b>			
<b>PROOF OF SERVICE BY MAIL</b>		CASE NUMBER: <b>08 CV-714 JLS(POR)</b>	

I am a citizen of the United States and employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 4665 PARK BLVD, SAN DIEGO, CA 92116.

On April 29, 2008, after substituted service under section CCP 415.20(a) or 415.20(b) or FRCIV.P 4(d)(1) was made, I mailed copies of the:

**APPLICATION FOR TEMPORARY RESTRAINING ORDER WITH NOTICE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S APPLICATIONS FOR TEMPORARY RESTRAINING ORDER WITH NOTICE AND PRELIMINARY INJUNCTION; DECLARATION IN SUPPORT OF APPLICATIONS FOR TEMPORARY RESTRAINING ORDER WITH NOTICE AND PRELIMINARY INJUNCTION; [PROPOSED] TEMPORARY RESTRAINING ORDER; APPLICATION FOR PRELIMINARY INJUNCTION; NOTICE OF HEARING; ORDER GRANTING PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER**

to the defendant in said action by placing a true copy thereof enclosed in a sealed envelope, with First Class postage thereon fully prepaid, in the United States Mail at SAN DIEGO, CA 92116, California, addressed as follows:

**SAMUEL V. NUCCI**  
**1635 ROSECRANS STREET SUITE D**  
**SAN DIEGO, CA 92106**

I am readily familiar with the firm's practice for collection and processing of documents for mailing. Under that practice, it would be deposited within the United States Postal Service, on that same day, with postage thereon fully prepaid at SAN DIEGO, CA 92116, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

Fee for Service: 42.50



County: **San Diego**  
 Registration No.: **968**  
**DIVERSIFIED LEGAL SERVICES, INC**  
**4665 PARK BLVD**  
**SAN DIEGO, CA 92116**  
**(619) 260-8224**

I declare under penalty of perjury under the laws of the State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on **April 30, 2008**.

Signature: \_\_\_\_\_

**KEVIN GILBERT**

**PROOF OF SERVICE BY MAIL**

Order#: 163942/GProof5

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): <b>KIRBY &amp; MCGUINN, APC</b> <b>DEAN T. KIRBY, JR., ESQ., 090114</b> <b>600 "B" STREET, 1950</b> <b>SAN DIEGO, CA 92101</b>		TELEPHONE NO. <b>(619) 685-4000</b>	FOR COURT USE ONLY Page 5 of 8
ATTORNEY FOR (Name): <b>TINA/CHIQUITA</b>		Ref. No. or File No.	
Insert name of court, judicial district or branch court, if any: <b>UNITED STATES DISTRICT COURT</b> <b>880 FRONT STREET - SUITE 4290</b> <b>SAN DIEGO, CA 92101</b>			
PLAINTIFF: <b>CHIQUITA</b>			
DEFENDANT: <b>SAMMY'S</b>			
<b>PROOF OF SERVICE</b>	DATE:	TIME:	DEPT/DIV: CASE NUMBER: <b>08 CV-714 JLS (POR)</b>

**UNITED STATES DISTRICT COURT  
DECLARATION OF SERVICE**

I, THE UNDERSIGNED, DECLARE UNDER PENALTY OF PERJURY THAT I WAS ON THE DATE HEREIN REFERRED TO OVER THE AGE OF 18 YEARS AND NOT A PARTY TO THE WITHIN ENTITLED ACTION. I SERVED THE:

APPLICATION FOR TEMPORARY RESTRAINING ORDER WITH NOTICE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S APPLICATIONS FOR TEMPORARY RESTRAINING ORDER WITH NOTICE AND PRELIMINARY INJUNCTION; DECLARATION IN SUPPORT OF APPLICATIONS FOR TEMPORARY RESTRAINING ORDER WITH NOTICE AND PRELIMINARY INJUNCTION; [PROPOSED] TEMPORARY RESTRAINING ORDER; APPLICATION FOR PRELIMINARY INJUNCTION; NOTICE OF HEARING; ORDER GRANTING PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER

ON: YAN SKWARA

IN THE ABOVE MENTIONED ACTION BY DELIVERING TO AND LEAVING WITH THE ABOVE NAMED PERSON A COPY THEREOF, AT:

1635 ROSECRANS STREET, SUITE D  
SAN DIEGO, CA 92106

ON: April 29, 2008  
AT: 10:15 am

COPIES WERE LEFT AT THE DEFENDANT'S DWELLING HOUSE OR USUAL PLACE OF ABODE WITH A PERSON OF SUITABLE AGE AND DISCRETION. I THEREAFTER MAILED THE COPIES, ADDRESSED AS SHOWN ABOVE, BY FIRST CLASS MAIL, POSTAGE PREPAID, ON April 29, 2008 FROM SAN DIEGO, CA 92116.

NAME OF PERSON WITH WHOM THE DOCUMENTS WERE LEFT:  
SYLVIA SNYDER ~ PERSON IN CHARGE - OFFICE MANAGER

**Manner of service** in compliance with Federal Rules of Civil Procedure.

Fee for Service: \$42.50  
Registered California process server.  
County: **SAN DIEGO**  
Registration No.: **968**  
**Diversified Legal Services, Inc.**  
**4665 Park Blvd**  
**San Diego, CA 92116**  
**6192608224**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on **April 30, 2008** at **SAN DIEGO, California.**

Signature:   
**STEPHEN GEBERT 163932**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)		FOR COURT USE ONLY	
<b>DEAN T. KIRBY, JR., ESQ.</b> <b>KIRBY &amp; MCGUINN, APC</b> <b>600 "B" STREET 1950 SAN DIEGO, CA 92101</b>  TELEPHONE NO.: (619) 685-4000 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		SBN: 090114   FAX NO.: (619) 685-4004	
<b>UNITED STATES DISTRICT COURT</b>  STREET ADDRESS: 880 FRONT STREET - SUITE 4290 MAILING ADDRESS: CITY AND ZIP CODE: SAN DIEGO, CA 92101 BRANCH NAME: SOUTHERN DISTRICT			
PLAINTIFF/PETITIONER: <b>CHIKUITA</b> DEFENDANT/RESPONDENT: <b>SAMMY'S</b>			
<b>PROOF OF SERVICE BY MAIL</b>		CASE NUMBER: <b>08 CV-714 JLS(POR)</b>	

I am a citizen of the United States and employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 4665 PARK BLVD, SAN DIEGO, CA 92116.

On April 29, 2008, after substituted service under section CCP 415.20(a) or 415.20(b) or FRCIV.P 4(d)(1) was made, I mailed copies of the:

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to the defendant in said action by placing a true copy thereof enclosed in a sealed envelope, with First Class postage thereon fully prepaid, in the United States Mail at SAN DIEGO, CA 92116, California, addressed as follows:

**YAN SKWARA**  
**1635 ROSECRANS STREET SUITE D**  
**SAN DIEGO, CA 92106**

I am readily familiar with the firm's practice for collection and processing of documents for mailing. Under that practice, it would be deposited within the United States Postal Service, on that same day, with postage thereon fully prepaid at SAN DIEGO, CA 92116, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

Fee for Service: 42.50



County: **San Diego**  
 Registration No.: **968**  
**DIVERSIFIED LEGAL SERVICES, INC**  
**4665 PARK BLVD**  
**SAN DIEGO, CA 92116**  
**(619) 260-8224**

I declare under penalty of perjury under the laws of the State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on **April 30, 2008**.

Signature: \_\_\_\_\_  
**KEVIN GILBERT**

**PROOF OF SERVICE BY MAIL**

Order#: 163932/GProof5



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): <b>KIRBY &amp; MCGUINN, APC</b> <b>DEAN T. KIRBY, JR., ESQ., 090114</b> <b>600 "B" STREET, 1950</b> <b>SAN DIEGO, CA 92101</b>		TELEPHONE NO. (619) 685-4000	FOR COURT USE ONLY Filed 06/02/2008 Page 7 of 8
ATTORNEY FOR (Name): Insert name of court, judicial district or branch court, if any: <b>UNITED STATES DISTRICT COURT</b> <b>880 FRONT STREET - SUITE 4290</b> <b>SAN DIEGO, CA 92101</b>		Ref. No. or File No. <b>TINA/CHIQUITA</b>	
PLAINTIFF: <b>CHIQUITA</b>			
DEFENDANT: <b>SAMMY'S</b>			
<b>PROOF OF SERVICE</b>	DATE:	TIME:	DEPT/DIV: CASE NUMBER: <b>08 CV-714 JLS (POR)</b>

**UNITED STATES DISTRICT COURT  
DECLARATION OF SERVICE**

I, THE UNDERSIGNED, DECLARE UNDER PENALTY OF PERJURY THAT I WAS ON THE DATE HEREIN REFERRED TO OVER THE AGE OF 18 YEARS AND NOT A PARTY TO THE WITHIN ENTITLED ACTION. I SERVED THE:

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ON: DARIN PINES

IN THE ABOVE MENTIONED ACTION BY DELIVERING TO AND LEAVING WITH THE ABOVE NAMED PERSON A COPY THEREOF, AT:

1635 ROSECRANS STREET, SUITE D  
SAN DIEGO, CA 92106

ON: April 29, 2008  
AT: 10:15 am

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NAME OF PERSON WITH WHOM THE DOCUMENTS WERE LEFT:  
SYLVIA SNYDER ~ PERSON IN CHARGE - OFFICE MANAGER

**Manner of service** in compliance with Federal Rules of Civil Procedure.

Fee for Service: \$42.50  
 Registered California process server.  
 County: **SAN DIEGO**  
 Registration No.: **968**  
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**4665 Park Blvd**  
**San Diego, CA 92116**  
**6192608224**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on **April 30, 2008** at **SAN DIEGO, California.**

Signature:   
**STEPHEN GEBERT 163953**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)		FOR COURT USE ONLY	
<b>DEAN T. KIRBY, JR., ESQ.</b> <b>KIRBY &amp; MCGUINN, APC</b> <b>600 "B" STREET 1950 SAN DIEGO, CA 92101</b>  TELEPHONE NO.: <b>(619) 685-4000</b> E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		<b>SBN: 090114</b>   <b>FAX NO.: (619) 685-4004</b>	
<b>UNITED STATES DISTRICT COURT</b>  STREET ADDRESS: <b>880 FRONT STREET - SUITE 4290</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>SAN DIEGO, CA 92101</b> BRANCH NAME: <b>SOUTHERN DISTRICT</b>			
PLAINTIFF/PETITIONER: <b>CHIKUITA</b> DEFENDANT/RESPONDENT: <b>SAMMY'S</b>			
<b>PROOF OF SERVICE BY MAIL</b>		CASE NUMBER: <b>08 CV-714 JLS(POR)</b>	

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**DARIN PINES**  
**1635 ROSECRANS STREET SUITE D**  
**SAN DIEGO, CA 92106**

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Fee for Service: **42.50**



County: **San Diego**  
 Registration No.: **968**  
**DIVERSIFIED LEGAL SERVICES, INC**  
**4665 PARK BLVD**  
**SAN DIEGO, CA 92116**  
**(619) 260-8224**

I declare under penalty of perjury under the laws of the State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on **April 30, 2008**.

Signature: \_\_\_\_\_  
**KEVIN GILBERT**

**PROOF OF SERVICE BY MAIL**

Order#: 163953/GProof5